

BERNALILLO COUNTY WATER WELL ORDINANCE

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1 **BERNALILLO COUNTY WATER WELL ORDINANCE**

2 **Section 1. Purpose**

3 The Board of County Commissioners has determined that potential sources of
4 contamination exist which may threaten the quality of ground water in Bernalillo County
5 and consequently, the health, safety, commerce, public services, property, and the general
6 welfare of the public. These potential sources of contamination are created by a
7 cumulative effect of human influence and/or natural activities taking place within
8 sufficient proximity to Bernalillo County’s ground water supply as to pose a threat of
9 contamination. The objective of this Ordinance is to provide minimum requirements for
10 the construction, modification, and abandonment of private, multiple household, public,
11 and monitoring wells, and thereby provide protection of the ground water within the
12 unincorporated areas of Bernalillo County.

13 **Section 2. Applicability**

14 This Ordinance shall apply to any person or entity desiring to engage in construction
15 or use of one or more wells for ground water within the unincorporated areas of
16 Bernalillo County, including the construction of wells for monitoring purposes. The
17 County may order that wells be abandoned if they do not comply with any provision of
18 this Ordinance. In those instances where this Ordinance does not address procedures and
19 practices of well construction, modification, and abandonment, the Rules and Regulations
20 of the OSE, the “Manual of Water Well Construction Practices,” (NGWA (1998) or most
21 current) and/or the “Standard for Water Wells,” (AWWA (1998) or most current) shall be
22 deferred to by the County.

1 **Section 3. Definitions**

2 “*Abandoned Well*” means a well which will no longer be used or which is in a state of
3 disrepair such that it cannot be rehabilitated for its intended purpose or monitoring and
4 observation.

5 “*Abandonment*” means proper well sealing to remove all physical and contaminant
6 hazard and to best simulate the pre-existing hydrogeologic conditions.

7 “*Arroyo*” means any ephemeral watercourse that only carries water during a storm event.

8 “*Annulus*” means the space within the borehole not occupied by the well casing..

9 “*Borehole*” means any hole drilled into the ground for the purpose of extracting ground
10 water.

11 “*Construction*” means well construction, but is not limited to, the installation of new or
12 replacement structures, equipment or pipe for the extraction of ground water.

13 “*Contaminant*” means any physical, chemical, biological, or radiological substance that
14 may adversely affect water quality.

15 “*Contamination*” is the introduction into ground water of any contaminant that will
16 affect water quality.

17 “*Contractor*” means a licensed, qualified person who drills, completes, or conducts work
18 on water supply systems and/or wells.

19 “*County*” means the Bernalillo County Commission, Bernalillo County Manager, and/or
20 representative thereof.

21 “*Disinfectant*” means any substance including, but not limited to, chlorine, chlorine
22 dioxide, chloramines, and ozone that is added to water in any part of the treatment or
23 distribution process, that is intended to kill or inactivate pathogenic microorganisms.

1 “*Domestic purposes*” means use of water for human consumption including, but not
2 limited to, the processing and preparation of food for human consumption; for use in
3 washing and rinsing those utensils and equipment used in the preparation, processing or
4 consumption of food; for use in swimming pools; for bathing and other personal use, for
5 the watering of livestock; or irrigation. This may include residential, commercial, or
6 institutional uses.

7 “*Driven Well*” means a well where the casing is pushed into the ground rather than set
8 into a drilled hole.

9 “*Dry Hole*” means a well that will not yield sufficient quantities of water for the intended
10 use.

11 “*EPA*” means the United States Environmental Protection Agency.

12 “*Final Approval*” means the approval granted when all inspections, including a final
13 inspection, have been approved.

14 “*Floodplain*” means the floodplain defined by the Federal Emergency Management
15 Agency Floodplain Maps.

16 “*Ground Water*” means water in a saturated zone or stratum beneath the surface of land
17 or water.

18 “*Ground-Water Protection Policy and Action Plan*” (GPPAP) is the adopted plan by
19 Bernalillo County and the City of Albuquerque defining the need for ground water
20 protection initiatives.

21 “*Individual Well*” means a well that supplies water and associated piping that serves a
22 single lot or household.

1 “*Legal Existing Well*” means a well that was previously permitted and approved under
2 the requirements at the time of construction or modification. Wells constructed or
3 modified after December 1987 must have been permitted, inspected, and approved by the
4 County to be considered a legal existing well. A well that was constructed or modified
5 before December 1987 must hold an OSE water right that is dated from the time of
6 construction or modification.

7 “*Maximum Contaminant Level*” means the maximum permissible level of a contaminant
8 in ground water as defined by NMED.

9 “*Modification*” means the repair or deepening of a well, the establishment of an
10 additional connection to a structure or lot not previously connected to a multiple
11 household well, the conversion of an individual well to a multiple household well, or the
12 installation of some means to treat contaminated water. This excludes the replacement of
13 existing mechanical parts.

14 “*Monitoring Well*” means a well that is used to obtain water quality samples or measure
15 groundwater levels.

16 “*Multiple Household Well*” means a well and associated piping that serves more
17 than one lot and/or household and cannot be qualified as a public water supply
18 system.

19 “*NMED*” means the New Mexico Environment Department.

20 “*OSE*” means the New Mexico Office of the State Engineer or equivalent
21 regulatory authority.

22 “*Owner*” means the person or entity responsible for the well. If there is no
23 designated well owner, the property owner is responsible for the well.

1 “*Permit Application*” means a form supplied by the County for the purpose of
2 requesting a well permit and any supporting documents as required by the
3 County.

4 “*Person*” means any individual, public or private corporation, association, trust,
5 estate, political subdivision or agency, or any other legal entity or their legal
6 representatives, agents, or assigned others.

7 “*Pollution*” means the presence in water of enough harmful or objectionable
8 material to damage or degrade the water quality.

9 “*Public Well*” means a well for the provision to the public of piped water
10 for human consumption if such system has at least fifteen (15) service
11 connections or services an average of twenty-five (25) individuals on a
12 regular basis.

13 “*Surface Water*” means water that is present, flowing, and located on the surface
14 of the earth.

15 “*Use*” means the withdrawal of water from a well using manual or mechanical
16 means.

17 “*Water Quality*” means the physical, chemical, biological, and aesthetic properties
18 of water.

19 “*Well Driller*” means a licensed, qualified party who drills, completes, and/or
20 conducts work on wells.

21 “*Well*” means an excavation or opening into the ground made by digging, boring,
22 drilling, driving, or other methods, the purpose of which is to obtain ground water
23 for use, and/or monitoring ground water levels or quality.

1 “*Wellhead*” means the area immediately surrounding the top of a well, or the top of a
2 well casing.
3 “*Wellhead Protection*” means the combination of land-use planning and well
4 construction techniques and abandonment standards that protect and manage the ground
5 water resources of Bernalillo County.

6 **Section 4. Individual Wells**

7 **Section 4.1. Use Requirements for Individual Wells**

- 8 A No person or entity shall construct, install, modify, or use an individual well
9 unless it is constructed, permitted, and maintained in accordance with the
10 provisions of this Ordinance.
- 11 B No person shall use an individual well that does not meet the construction
12 requirements of this Ordinance.
- 13 C No person shall use an individual well that produces water that exceeds the
14 maximum contaminant levels allowed.
- 15 D No person shall use an individual well that does not meet the conditions of the
16 OSE permit.
- 17 E Any new or modified well must be tested and meet water quality standards for
18 parameters as determined by the County before final approval will be granted.
19 Water sample collection, analysis, and analytical costs are the responsibility of the
20 owner. The analysis should include, but is not limited to, the following: total
21 coliform, total Kjeldahl nitrogen (TKN), ammonia, nitrate, nitrite, sodium,
22 potassium, calcium, magnesium, chlorine, bicarbonate, and sulfate. Additional
23 water sampling parameters may be required based on site conditions.

Section 4.2. Site Requirements for Individual Wells

A The location of the well on the site shall not be in the floodplain as defined by Federal Emergency Management Agency (FEMA) Floodplain Maps. The well location shall be upgradient from known sources of pollution and contamination that may affect the well. Final grading shall be done in a way that drains storm water away from the wellhead. The location of the well shall meet the setback requirements set forth in Table 1.

Table 1. Minimum Setback Distances for an Individual Well

<i>Minimum setback distance for an individual well</i>	<i>To</i>
25 Feet	Watertight Sewer Lines or Drain Lines
10 Feet	Property Lines
100 Feet	Vitrified Clay or Concrete Sewers
50 Feet	Watertight Septic Tanks, On-site Treatment Units, or Wastewater Pump Basins
100 Feet	Individual wastewater system disposal fields
150 Feet	Seepage pits
200 Feet	Community wastewater system disposal fields
100 Feet	Rivers, streams, irrigation canals and drains (lined or unlined), ponds, or other surface waters
25 Feet	Arroyos and small man-made ditches for irrigation purposes that infrequently carry water
100 Feet	Animal holding areas including corrals, stables, pens
100 Feet	Any underground storage tank
500 Feet	Any known ground water contaminant plume

B Lots that are zoned commercial or manufacturing, or lots with special use permits allowing those purposes, shall meet setback distances two (2) times the distance required for individual wells as shown on Table 1.

1 C Wells cannot be located within the boundaries of an easement not designated for
2 access to the well.

3 D The well shall be located so that it is accessible for maintenance.

4 **Section 4.3. Construction Requirements for Individual Wells**

5 A Materials used in wells and boreholes shall be in good condition and conform to
6 industry standards acceptable to the County including those standards developed
7 by the American Water Works Association (AWWA), American Society for
8 Testing Materials (ASTM) and National Groundwater Association (NGWA).

9 B All down-hole equipment shall be thoroughly cleaned prior to the start of drilling.
10 No contaminated or untreated water shall be placed in a well or borehole during
11 construction or abandonment.

12 C Final grading shall be done in a way that drains storm water away from the
13 wellhead.

14 D A concrete pad, at least four (4) inches thick and extending at least three (3) feet
15 from the well casing on all sides, shall be built around the well casing on the
16 surface. The top of the concrete pad shall be graded to slope away from the well
17 casing in all directions. The top of the well casing shall extend a minimum of
18 eighteen (18) inches above the concrete pad.

19 E All wells and boreholes shall be constructed to prevent contaminants from
20 entering the well or borehole from the ground surface or other aquifers. All wells
21 shall be constructed to prevent contamination from the ground surface by sealing
22 the annular space around the production casing or by enclosing the production
23 casing with a sealed surface casing. Seals shall extend to a minimum of twenty

1 (20) feet below ground surface. Seals must extend to the base of the concrete pad
2 or to the base of the pitless adapted, if used. All sealing operations required under
3 this section shall be made with cement grout. Casings shall be centered in the
4 borehole so grout or other sealing materials are evenly spaced around the casing.
5 The County may require additional protection based on site conditions.
6 F Wells which encounter undesirable water at any depth shall have the well annulus
7 sealed to prevent the commingling of undesirable water with other water, or the
8 loss of water into undesirable water quality zones.

9 **Section 4.4. Permitting of Individual Wells**

10 A Prior to the construction, installation, modification, or abandonment of an
11 individual well, a permit must be obtained from the County. Failure to
12 obtain a permit from the County prior to the construction or installation of
13 a new well, or modification of an existing well, as required herein, is a
14 violation of this Ordinance.
15 B Any person seeking an individual well permit shall do so by filing a written
16 permit application with the County, accompanied by the applicable fee as
17 determined by the Fee Schedule as set by the Board of County Commissioners.
18 The application, plans and specifications, and other documentation submitted for
19 review shall be clear, legible, and of a permanent nature. The burden of proof that
20 the well will meet all requirements of this Ordinance is the responsibility of the
21 applicant. The County may require that wells found to be in violation of the
22 requirements of this Ordinance be abandoned at the owner's expense. An

1 individual well permit application shall not be accepted until all information
2 outlined below is provided.

- 3 1. The applicant's name, mailing address, telephone number, and signature
4 of the applicant;
- 5 2. The property owner's name, mailing address, and telephone number;
- 6 3. Authorization for the installation of the well by the property owner, if
7 different from the applicant;
- 8 4. The date of the application;
- 9 5. The site address, legal description, and the Uniform Property Code;
- 10 6. A scaled drawing with a minimum scale of one (1) inch is equal to twenty
11 (20) feet showing the following:
 - 12 a. The proposed location of the well on the lot;
 - 13 b. Drainage areas, Middle Rio Grande Conservancy District Ditches
14 and Albuquerque Metropolitan Flood Control Agency flood
15 control areas within 100 feet of the well;
 - 16 c. Proof of compliance with the minimum setbacks in Table 1. This
17 may require a depiction of properties beyond the lot boundaries.
 - 18 d. Other wells currently in use or abandoned;
 - 19 e. Road easements, utility easements (including those used for shared
20 wells), and road thoroughfares;
- 21 7. Construction details of the installation;
- 22 8. A copy of the OSE permit showing a diversion greater than zero (0);

1 9. Such other well location and construction information as the County may
2 require allowing for wellhead and ground water protection.

3 C The application will not be accepted or reviewed until all necessary
4 information is submitted. Failure to submit the information required in
5 this section to the County will result in denial of the permit application.
6 Within ten (10) business days from the date that a completed application is
7 submitted, the County shall issue a decision on a permit application.

8 Decisions include:

- 9 1. Issued. If the County determines that the proposed design and
10 installation, or the proposed modification of a well conforms with
11 the pertinent provisions of this Ordinance, the County shall issue a
12 permit.
- 13 2. Issued with conditions. If the County determines that the proposed
14 design or the proposed modification of a well conforms with the
15 pertinent provisions of this Ordinance only after specific
16 conditions are followed, a permit may be issued. Final approval
17 will not be granted unless all conditions are met.
- 18 3. Denied. If, upon review, the proposed well design and installation,
19 or the modification of an existing well does not meet the
20 requirements of this Ordinance, the permit shall be denied. The
21 County shall notify the applicant, in writing, the reasons for the
22 denial and the procedure for appeal. The applicant may appeal the
23 decision within thirty (30) days of the decision. The permit

1 application shall become void after thirty (30) days from the date
2 of the decision, unless the applicant has appealed.

3 D The County shall maintain a file of all individual well permit applications
4 and decisions.

5 E Permits shall become void if the well is not constructed, installed,
6 modified, and final approval granted within one (1) year from the date of
7 issuance of the permit. Extensions, not to exceed one year, will be granted
8 if the County receives a written extension request prior to the expiration
9 date of the permit.

10 F Permits are not transferable from place to place.

11 G Fees must be paid in advance of acceptance of the permit application, and in
12 accordance with the Fee Schedule as set by the Board of County Commissioners.

13 **Section 4.5. Non-Conforming Use of Individual Wells**

14 A Any existing individual well that was permitted, inspected, and approved by the
15 County prior to the enactment date of this Ordinance shall meet all requirements
16 of this Ordinance (including the application for a new permit) at the time the well
17 is modified or abandoned.

18 B Any existing individual well that was constructed before December 1987 that has
19 a permit issued by the OSE shall meet the requirements of this Ordinance at the
20 time in which the well is modified or abandoned, including an application for a
21 new permit.

22 C Any well constructed after December 1987 that has not received final approval
23 from the County shall meet all requirements of this Ordinance.

1 **Section 4.6. Conditional Permit for Individual Wells**

2 A A conditional permit is required for an individual well if:

- 3 1. An individual well requires treatment to improve the water quality from
4 the well to meet New Mexico groundwater water standards;
- 5 2. During the regular review of any County permit, it is found that an
6 existing well is at risk from contamination by not meeting the setback
7 requirements in Table 1, regardless of the requirements at the time of
8 installation;
- 9 3. A water quality sample from the well shows that the water has become
10 contaminated and the well is not to be abandoned.

11 B Any person seeking a conditional permit shall do so by filing a written application
12 with the County, accompanied by the applicable fee as determined by the Fee
13 Schedule as set by the Board of County Commissioners. The conditional permit
14 application shall include the following:

- 15 1. All permit information required for an individual well permit application;
- 16 2. An explanation of the problem that requires treatment or an description of
17 the setback distance that is not met.
- 18 3. The corrective measures that will be used to fulfill the intent of this
19 Ordinance.
- 20 a. Treatment to meet water quality standards should be a recognized
21 method of treatment that has been tested and shown to be effective.
- 22 b. A sampling regimen must include the expected contaminants or
23 representative indicators of contamination.

- 1 4. A water sampling plan to ensure that the corrective measures are and
2 remain effective.
- 3 C The County will within ten (10) working days after the application is submitted
4 issue a permit or deny the application.
- 5 D The County may issue a conditional permit and place such conditions it deems
6 necessary to protect the health, safety and welfare of the residents of Bernalillo
7 County.
- 8 E The applicant must comply with the conditions associated with the conditional
9 permit. If it is found that at anytime the conditions are not met, the permit will be
10 revoked and the well must be abandoned at the owner's expense.
- 11 F Denial of a conditional permit will require the abandonment of the well. The
12 applicant may appeal the denial within fifteen (15) days of the date of the
13 decision.

14 **Section 5. Multiple Household Wells**

15 **Section 5.1. Use Requirements for Multiple Household Wells**

- 16 A No person or entity shall construct, install, modify, or use a multiple household
17 well unless it is constructed, permitted, and maintained in accordance with the
18 provisions of this Ordinance.
- 19 B Multiple household wells can serve up to a maximum of five households or five
20 lots.
- 21 C No person shall use a well that does not meet the construction requirements of this
22 Ordinance and/or its water exceeds the maximum contaminant levels allowed.

1 D No person shall use a multiple household well that does not meet the conditions of
2 the OSE permit.

3 E A multiple household well may not have more than five (5) connections.

4 F Any new or modified well must be tested for water quality parameters as
5 determined by the County before final approval will be granted. Water sample
6 collection, analysis, and analytical costs are the responsibility of the owner. The
7 analysis should include, but is not limited to, the following: total coliform, total
8 Kjeldahl nitrogen (TKN), ammonia, nitrate, nitrite, sodium, potassium, calcium,
9 magnesium, chlorine, bicarbonate, and sulfate. Additional water sampling
10 parameters may be required based on site conditions

11 G The owner of a multiple household well shall submit annual microbiological
12 sampling results to the County. The County may require the abandonment of a
13 well, at the owner's expense, that does not submit annual results. Water sample
14 collection, analysis, and analytical costs are the responsibility of the owner.

15 **Section 5.2. Site Requirements for Multiple Household Wells**

16 A The location of the well on the site shall not be in the floodplain as defined by
17 Federal Emergency Management Agency (FEMA) Floodplain Maps. The well
18 location shall be upgradient from known sources of pollution and contamination
19 that may affect the well. Final grading shall be done in a way that drains storm
20 water away from the wellhead. The location of multiple household wells shall
21 meet the setback requirements set forth in Table 2.

1

Table 2. Minimum Setback Distances for a Multiple Household Well

<i>Minimum setback distance for a multiple household well</i>	<i>To</i>
25 Feet	Watertight Sewer Lines or Drain Lines
10 Feet	Property Lines
100 Feet	Vitrified Clay or Concrete Sewers
50 Feet	Watertight Septic Tanks, On-site Treatment Units, or Wastewater Pump Basins
100 Feet	Individual wastewater system disposal fields
150 Feet	Seepage pits
200 Feet	Community wastewater system disposal fields
100 Feet	Rivers, streams, irrigation canals and drains (lined or unlined), ponds, or other surface waters
25 Feet	Arroyos and small man-made ditches for irrigation purposes that infrequently carry water
100 Feet	Animal holding areas including corrals, stables, pens
100 Feet	Any underground storage tank
500 Feet	Any known ground water contaminant plume

2 B Lots that are zoned commercial or manufacturing, or lots with special use permits

3 allowing those purposes, shall meet setback distances two (2) times the distance

4 required for multiple household wells as shown in table 2.

5 C A multiple household well must be placed within an easement granting access to

6 the well. All water lines associated with the multiple household well must be

7 placed within an easement.

8 D Wells cannot be located within the boundaries of an easement not designated for

9 access to the well.

10 E The well shall be located so that it is accessible for maintenance.

11 **Section 5.3. Construction Requirements for Multiple Household Wells**

12 A Materials used in wells and boreholes shall be in good condition and conform to

13 industry standards acceptable to the County including those standards developed

- 1 by the American Water Works Association (AWWA), American Society for
2 Testing Materials (ASTM) and National Groundwater Association (NGWA).
- 3 B All down-hole equipment shall be thoroughly cleaned prior to the start of drilling.
4 No contaminated or untreated water shall be placed in a well or borehole during
5 construction or plugging.
- 6 C Final grading shall be done in a way that drains storm water away from the
7 wellhead.
- 8 D A concrete pad, at least four (4) inches thick and extending at least three (3) feet
9 from the well casing on all sides, shall be built around the casing on the surface.
10 The top of the concrete pad shall be graded to drain away from the casing in all
11 directions. The top of the well casing shall extend a minimum of eighteen (18)
12 inches above the concrete pad.
- 13 E A totalizing meter is required on all multiple household wells.
- 14 F All wells and boreholes shall be constructed to prevent contaminants from
15 entering the well or borehole from the ground surface or other aquifers. All wells
16 shall be constructed to prevent contamination from the ground surface by sealing
17 the annular space around the production casing or by enclosing the production
18 casing with a sealed surface casing. Seals shall extend to a minimum of twenty
19 (20) feet below ground surface. Seals must extend to the base of the concrete pad
20 or to the pitless adapter, if used. All sealing operations required under this section
21 shall be made with cement grout. Casings shall be centered in the borehole so
22 grout or other sealing materials are evenly spaced around the casing. The County
23 may require additional protection based on site conditions.

1 G Wells which encounter undesirable water at any depth shall have the well annulus
2 sealed to prevent the commingling of undesirable water with other water, or the
3 loss of water into undesirable water quality zones.

4 **Section 5.4. Permitting of Multiple Household Wells**

5 A Prior to the construction installation, modification, or abandonment of a
6 multiple household well, a permit must be obtained. Failure to obtain a
7 permit from the County prior to the construction or installation of a new
8 well, or modification of an existing well, as required herein, is a violation
9 of this Ordinance.

10 B Any person seeking a permit shall do so by filing a written application with the
11 County, accompanied by the applicable fee as determined by the Fee Schedule as
12 set by the Board of County Commissioners. The application, plans and
13 specifications, and other documentation submitted for review shall be clear,
14 legible, and of a permanent nature. The burden of proof that the well will meet all
15 requirements of this Ordinance is the responsibility of the applicant. The County
16 may require that wells found to be in violation of the requirements of this
17 Ordinance be abandoned at the owner's expense. An application shall not be
18 deemed complete until all information outlined below is provided.

- 19 1. The applicant's name, mailing address, telephone number, and the
20 signature of the applicant;
- 21 2. The property owner's name, mailing address, and telephone number;
- 22 3. Authorization for the installation of the well by the property owner, if
23 different from the applicant;

- 1 4. The date of the application;
- 2 5. The site address, legal description, and the Uniform Property Code;
- 3 6. The addresses of all lots served by the well.
- 4 7. The total number of persons that will be served by the well
- 5 8. A map that identifies each parcel that receives or will receive water from
- 6 the well;
- 7 9. Provide a scaled drawing with a minimum scale of one (1) inch is equal to
- 8 twenty (20) feet giving distances to the following items within 200 feet of
- 9 the proposed well:
 - 10 a. The proposed location of the well on the lot;
 - 11 b. Drainage areas, Middle Rio Grande Conservancy District Ditches
 - 12 and Albuquerque Metropolitan Flood Control Agency flood
 - 13 control areas;
 - 14 c. Proof of compliance with the minimum setbacks in Table 2. This
 - 15 may require a depiction of properties beyond the lot boundaries.
 - 16 d. Other wells currently in use or abandoned;
 - 17 e. Road easements, utility easements (including those used for shared
 - 18 wells), and road thoroughfares;
- 19 10. Construction details of the installation;
- 20 11. A copy of the OSE multiple household permit showing a diversion greater
- 21 than zero (0);
- 22 12. A copy of a well share agreement that is signed by all property owners
- 23 served by the well;

1 13. Other well location and construction information as the County may
2 require allowing for wellhead and ground water protection.

3 C The application will not be accepted or reviewed until all necessary
4 information is submitted. Failure to submit the information required in
5 this section to the County will result in a denial of the permit application.
6 Within ten (10) business days of the date that a completed application is
7 submitted, the County shall issue a decision on a permit application.

8 Decisions include:

- 9 1. Issued. If the County determines that the proposed design and
10 installation or the proposed modification of a well conforms with
11 the pertinent provisions of this Ordinance, the County shall issue a
12 permit.
- 13 2. Issued with conditions. If the County determines that the proposed
14 design or the proposed modification of a well conforms with the
15 pertinent provisions of this Ordinance only after specific
16 conditions are followed, a permit may be issued. Final approval
17 will not be granted unless all conditions are met.
- 18 3. Denied. If, upon review, the proposed well design and installation,
19 or the modification of an existing well, does not meet the
20 requirements of this Ordinance, the permit shall be denied. The
21 County shall notify the applicant, in writing, the reasons for the
22 denial and the procedure for appeal. The applicant may appeal the
23 decision within thirty (30) days of the decision. The permit

1 application shall become void after thirty (30) days from the date
2 of the decision, unless the applicant has appealed.

3 D The County shall maintain a file of all multiple household well permit
4 applications and decisions.

5 E Permits shall become void if the well is not constructed, installed, or
6 modified, and final approval granted within one (1) year from the date of
7 issuance of the permit. Extensions, not to exceed one year beyond the
8 original expiration date, will be granted if the County receives a written
9 extension request prior to the expiration date of the permit.

10 F Permits are not transferable from place to place.

11 G Fees must be paid in advance of acceptance of the permit application, and in
12 accordance with the Fee Schedule as set by the Bernalillo County Board of
13 Commissioners.

14 **Section 5.5. Non-Conforming Use of Multiple Household Wells**

15 A Any existing multiple household well that was permitted, inspected, and approved
16 by the County prior to the enactment date of this Ordinance shall meet all
17 requirements of this Ordinance (including the application for a new permit) at the
18 time the well is modified, abandoned, or a new household or lot is connected to
19 the well.

20 B Any existing multiple household well that was constructed before December 1987
21 that has a permit issued by the OSE for a multiple household use shall meet all
22 requirements of this Ordinance at the time the well is modified, abandoned, or a

1 new household or lot is connected to the well, including the application for a new
2 permit.

3 C Any multiple household well that was constructed after December 1987 that has
4 not received final approval from the County shall meet all requirements of this
5 Ordinance.

6 D Any multiple household well that is found to have more than fourteen (14)
7 connections or is serving more than twenty-five (25) persons will classified as a
8 public water supply and will be required to be permitted by NMED before any
9 water can be used.

10 **Section 5.6. Conditional Permit for Multiple Household Wells**

11 A A conditional permit is required for an multiple household well if:

- 12 1. A multiple household well requires treatment to improve the water quality
13 from the well to meet New Mexico groundwater water standards;
- 14 2. During the regular review of any County permit, it is found that the well is
15 at risk from contamination by not meeting the setback requirements in
16 Table 2, regardless of the requirements at the time of installation;
- 17 3. A water quality sample from the well shows that the water has become
18 contaminated and the well is not to be abandoned; or
- 19 4. The well has more than five (5) but less than fifteen (15) connections.

20 B Any person seeking a conditional permit shall do so by filing a written application
21 with the County, accompanied by the applicable fee as determined by the Fee
22 Schedule as set by the Board of County Commissioners. The conditional permit
23 application shall include the following:

- 1 1. All permit information required for a multiple household well permit.
- 2 2. An explanation of the problem that requires treatment or a description of
- 3 the setback distance that is not met.
- 4 3. The corrective measures that will be used to fulfill the intent of this
- 5 Ordinance.
- 6 a. Treatment to meet water quality standards should be a recognized
- 7 method of treatment that has been tested and shown to be effective.
- 8 b. A sampling regimen must include the expected contaminants or
- 9 representative indicators of contamination.
- 10 4. A water sampling plan to ensure that the corrective measures are and
- 11 remain effective.
- 12 5. The exact number of connections to the well.
- 13 6. The exact number of persons served by the well.
- 14 7. A list of all properties served by the well.
- 15 C The County will within ten (10) working days after the application is submitted
- 16 issue a permit or deny the application.
- 17 D The applicant must comply with the conditions associated with the conditional
- 18 permit. If it is found that at anytime the conditions are not met, the permit will be
- 19 revoked and the well must be abandoned at the owner's expense.
- 20 E Denial of a conditional permit will require the abandonment of the well. The
- 21 applicant may appeal the denial within fifteen (15) days of the date of the
- 22 decision.

1 **Section 6. Public Wells**

2 **Section 6.1. Use Requirements for Public Wells**

3 A A public well must meet all use requirements as set by NMED.

4 **Section 6.2. Site Requirements for Public Wells**

5 A A public well must meet all site requirements as set by NMED.

6 **Section 6.3. Construction Requirements for Public Wells**

7 A A public well must meet all construction requirements as set by NMED.

8 **Section 6.4. Permitting of Public Wells**

9 A A copy of the NMED permit for a public well shall be provided to the
10 County.

11 **Section 6.5. Non-Conforming Use of Public Wells**

12 A Any public well that was drilled prior to the enactment date of this Ordinance
13 shall meet all requirements of this Ordinance at the time the well is modified or
14 abandoned. Maintenance of a public well is not considered a modification.

15 **Section 7. Monitoring Wells**

16 **Section 7.1. Use Requirements for Monitoring Wells**

17 A No person or entity shall construct, install, modify, or use a monitoring well
18 unless it is constructed, permitted, and maintained in accordance with the
19 provisions of this Ordinance.

1 **Section 7.2. Construction Requirements for Monitoring Wells**

2 A The wellhead shall be protected from the introduction of contamination from the
3 surface.

4 B The well shall be located so that it is accessible for sampling and maintenance.

5 C The well shall be constructed to maintain existing natural protection against the
6 contamination of ground water.

7 **Section 7.3. Permitting of Monitoring Wells**

8 A Prior to the construction, installation, modification, or abandonment of a
9 monitoring well, a permit must be obtained. Failure to obtain a permit
10 from the County prior to the construction, installation, or modification of a
11 well, as required herein, is a violation of this Ordinance.

12 B Any person seeking a permit shall do so by filing a written application with the
13 County, accompanied by the applicable fee as determined by the Fee Schedule set
14 by the Board of County Commissioners. The application, plans and
15 specifications, and other documentation submitted for review shall be clear,
16 legible, and of a permanent nature. The burden of proof that the well will meet all
17 requirements of this Ordinance is the responsibility of the applicant. The County
18 may require that wells found to be in violation of the requirements of this
19 Ordinance, be abandoned at the owner's expense. An application shall not be
20 deemed complete until all information outlined below is provided.

21 1. The applicant's name, mailing address, telephone number, and the
22 signature of the applicant;

23 2. The property owner's name, mailing address and telephone number;

3. Authorization for the installation of the well by the property owner, if different from the applicant;
4. The date of the application;
5. The site address, legal description and Uniform Property Code;
6. Provide a scaled drawing with a minimum scale of one (1) inch is equal to twenty (20) feet giving distances to the following items within 200 feet of the proposed well:
 - a. The proposed location of the well on the lot;
 - b. Drainage areas, Middle Rio Grande Conservancy District Ditches, and Albuquerque Metropolitan Flood Control Agency flood control areas;
 - c. Other wells currently in use or abandoned;
 - d. Road easements, utility easements (including those used for shared wells), and road thoroughfares;
7. Construction details of the installation;
8. Such other well location and construction information as the County may require allowing for wellhead and ground water protection.

C The application will not be accepted or reviewed until all necessary information is submitted. Failure to submit the information required in this section to the County will result in a denial of the permit application. Within ten (10) working days of the date of that a completed application is submitted, the County shall issue a decision on a permit application. Decisions include:

- 1 1. Issued. If the County determines that the proposed design and
2 installation or the proposed modification of a well conforms with
3 the pertinent provisions of this Ordinance, the County shall issue a
4 permit.
- 5 2. Issued with conditions. If the County determines that the proposed
6 design or the proposed modification of a well conforms with the
7 pertinent provisions of this Ordinance only after specific
8 conditions are followed, a permit may be issued. Final approval
9 will not be granted unless all conditions are met.
- 10 3. Denied. If, upon review, the proposed well design and installation
11 or the modification of an existing well does not meet the
12 requirements of this Ordinance, the permit shall be denied. The
13 County shall notify the applicant, in writing, the reasons for the
14 denial and the procedure for appeal. The applicant may appeal the
15 decision within thirty (30) days of the decision. The permit
16 application shall become void after thirty (30) days from the date
17 of the decision, unless the applicant has appeal.

18 D The County shall maintain a file of all approved and unapproved
19 applications.

20 E Permits shall become void if the well is not constructed, installed, or
21 modified, and final approval granted within one (1) year from the date of
22 issuance of the permit. Extensions, not to exceed one year beyond the

1 original expiration date, will be granted if the County receives a written
2 extension request prior to the expiration date of the permit.

3 F Permits are not transferable from place to place.

4 G Fees must be paid in advance of acceptance of the permit application and in
5 accordance with the Fee Schedule as set by the Bernalillo County Board of
6 Commissioners.

7 **Section 7.4. Non-Conforming Use of Monitoring Wells**

8 A Any monitoring well that was drilled prior to the enactment date of this Ordinance
9 shall meet all requirements of this Ordinance (including the application for a new
10 permit) at the time the well is modified or abandoned.

11 **Section 8. County Permits and Development Review**

12 **Section 8.1. Bernalillo County Permits**

13 A The County shall not issue a business license, building permit, zoning permit,
14 wastewater permit, or grant any other approval associated with any lot which
15 necessitates the use of a well, unless the County has determined that the well
16 meets the provisions of this Ordinance. The applicant shall provide
17 documentation to the County, at the time of application, disclosing the water
18 source that will serve the lot (public water supply, hauled water, individual well,
19 or multiple household well).

20 B No Certificate of Occupancy shall be issued to a structure that will be served by a
21 well that is regulated under this Ordinance or NMED unless that well has received
22 final approval from the County or NMED.

1 **Section 8.2. Subdivisions**

2 A All existing wells on properties proposed to be subdivided or replatted shall meet
3 all requirements of this Ordinance before the subdivision or replat will be
4 approved by the County. Wells that cannot meet the requirements of this
5 Ordinance shall be abandoned.

6 B Existing wells on lots subject to court-ordered subdivisions shall meet all
7 requirements of this Ordinance. The County may require that wells that cannot
8 meet the requirements of this Ordinance be abandoned.

9 **Section 9. Variances**

10 A A person may apply for a variance from any one or more requirements of this
11 Ordinance. Any person seeking a variance shall do so by filing a variance
12 application form. Variance applications must be submitted with the appropriate
13 fees as set by the Board of County Commissioners. Variance applications must
14 include:

- 15 1. The applicant's name, mailing address, telephone number, and signature
16 of the applicant;
- 17 2. The property owner's name, mailing address, and telephone number;
- 18 3. Authorization for the installation of the well by the property owner, if
19 different from the applicant;
- 20 4. The date of the application;
- 21 5. The site address, legal description, and the Uniform Property Code;
- 22 6. A scaled drawing with a minimum scale of one (1) inch is equal to twenty
23 (20) feet showing the following:

- a. The location of the well on the lot;
 - b. Drainage areas, Middle Rio Grande Conservancy District Ditches and Albuquerque Metropolitan Flood Control Agency flood control areas within 100 feet of the well;
 - c. Distances to items with minimum setbacks established by this Ordinance. This may require a depiction of properties beyond the lot boundaries.
 - d. Other wells currently in use or abandoned;
 - e. Road easements, utility easements (including those used for shared wells), and road thoroughfares;
7. The addresses of all lots served by the well;
 8. The total number of persons that will be served by the well;
 9. Such other well location and construction information as the County may require allowing for wellhead and ground water protection.

B The applicant has the burden of proof to establish by clear and convincing evidence that unique, peculiar, or unusual circumstances justify the request for a variance and:

1. The proposed or existing well will not pose or cause a hazard to public health nor contaminate the ground water of Bernalillo County;
2. Granting the variance will result in public health and environmental protection of equal to or greater than the minimum protection required by this Ordinance; and

- 1 3. The water from the well (after treatment, if necessary) will meet all
2 current drinking water standards.
- 3 C Within ten (10) working days following receipt of the variance application, the
4 County shall deny the variance, grant the variance or grant the variance subject to
5 conditions. The action taken by the County shall be by written order, a copy of
6 which shall be sent to the applicant. Orders shall:
- 7 1. State the applicant's name, address, and telephone number;
8 2. State the property owner's name address and telephone number;
9 3. Describe the location of the property where the water supply system exists
10 or where the proposed system is to be installed;
11 4. Describe the system;
12 5. If a variance is granted, state the period of time for which it was granted,
13 and any conditions which may apply; and
14 6. State the reasons for the County's decision.
- 15 D The County shall maintain a file of all variance application decisions.

16 **Section 10. Well Abandonment**

- 17 A Wells that are no longer capable of producing sufficient water for the intended use
18 or wells that do not have sufficient water quality shall be abandoned unless the
19 well is included in a water level or water quality monitoring program. Wells that
20 will be used in this type of program must comply with this Ordinance and obtain a
21 monitoring well permit. The County may require well casing inspections of
22 existing wells and abandonment of any well with a deteriorating casing that is not
23 repaired within the time period ordered by the County. The County may order

1 that wells be abandoned if they are in non-compliance with any provision of this
2 Ordinance.

3 B Wells and boreholes that are to be abandoned shall be done in accordance with the
4 technical guidance provided by the Bernalillo County Office of Environmental
5 Health.

6 C If an existing well or borehole is found to be a threat to public health, safety or
7 water quality, the owner shall repair and/or abandon the well immediately in
8 accordance with this Ordinance. The following will be considered a threat to
9 public health, safety or water quality, but additional items may be added if the
10 County believes that special hazards exist:

- 11 1. Annular space around well casing is open at or near the land surface;
- 12 2. Subsidence or caving around the well casing;
- 13 3. Significant deterioration of well casing;
- 14 4. Inadequate covering and drainage protection; and
- 15 5. Contaminated water.

16 **Section 11. Inspections**

17 A Any newly constructed, installed, modified, or abandoned well must receive a
18 final inspection and be granted final approval by the County prior to use.

19 B Wells are subject to inspection at any time during or after construction by the
20 County with reasonable notice to the owner. The County may issue a corrective
21 action notice if any deficiencies are identified.

- 1 C A final inspection of the well or borehole is required by the County before the
2 expiration date of the permit or within ten (10) days after abandonment is
3 completed.
- 4 D Final inspection includes, but is not limited to, an inspection of the following:
- 5 1. Inspection of the required documentation
- 6 a. Submission of a copy of the drill log submitted to the OSE.
- 7 b. Documentation of the disinfection of the well and drilling
8 equipment or documentation showing disinfection;
- 9 c. Documentation of well or borehole completion methods such as
10 grouting and construction, or receipts showing materials used for
11 grouting and construction;
- 12 d. A copy of a valid electrical permit from Bernalillo County for the
13 well system, if required.
- 14 e. Submission of required analytical results.
- 15 2. Inspection of the wellhead area;
- 16 3. Inspection of the concrete pad and other wellhead protection measures;
- 17 4. Verification that setback requirements are met;
- 18 5. Compliance with any permit conditions.
- 19 E A minimum twenty-four (24) hour advanced notice is required for the owner or
20 installer to schedule an inspection. Saturdays, Sundays, and County recognized
21 holidays shall not be included in the calculation of the twenty-four hour period.
- 22 F After final inspection, the County may issue final approval and supply
23 documentation of that approval in a manner specified by the County.

1 G The County shall maintain a file of all documents pertaining to well installation,
2 modification, inspection, and approval.

3 H The County may record the location of the well electronically, such as by using
4 global positioning system equipment, at final inspection. The County may
5 maintain a record of these locations in an electronic format.

6 **Section 12. Penalties/Violations/Enforcement**

7 A If the County establishes that a violation has occurred, the County shall serve
8 notice to the owner of real property upon which the well is located. The County
9 shall state the violation and order the property owner to make proper corrections
10 within a specified time.

11 B The County may refer the violation to the OSE, NMED, or other regulatory
12 agency as appropriate.

13 C Any person who has constructed or modified a well that is in violation of this
14 Ordinance may have their Bernalillo County business license revoked until such
15 time as the violation is resolved.

16 D Any person who violates any provision of this Ordinance shall be punished by a
17 fine not exceeding \$300.00, imprisonment for a term not exceeding 90 days, or
18 both. Each day the violation exists will be considered a separate violation.

19 **Section 13. Conflicts of This Ordinance**

20 When a provision of this Ordinance is found to be in conflict with a provision of any
21 zoning, building, plumbing, fire, safety, health ordinance or code effective in Bernalillo
22 County; the Rules and Regulations of the OSE; the Statutes of the State of New Mexico,

1 the “Manual of Water Well Construction Practices,” (NGWA (1998) or most current);
2 and/or the “Standard for Water Wells,” (AWWA (1998) or most current), the provision
3 of the more stringent requirement shall prevail.

4 **Section 14. Severability**

5 If any section, paragraph, sentence, clause, word, or phrase of this Ordinance is for
6 any reason held to be invalid or unenforceable by any court of competent jurisdiction,
7 such decision shall not affect the validity of the remaining provisions of this Ordinance.
8 The Board of County Commissioners hereby declares that it would have passed this
9 Ordinance and each section, paragraph, sentence, clause, word, or phrase thereof
10 irrespective of any provision being declared unconstitutional or otherwise invalid.

11 **Section 15. Effective Date**

12 This Ordinance shall take effect thirty (30) days after adoption by the Board of
13 County Commissioners.

14 **Section 16. Repeal of Individual Water Supply Ordinance.**

15 Approval of this Ordinance repeals Division 11 of Chapter 42, Individual Water
16 Supply Systems, Sections 42-541 through 42-547.